IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1358 of 1985

For Approval and Signature:

Hon'ble ACTING CHIEF JUSTICE MR.JN BHATT
and
Hon'ble MR.JUSTICE A.L.DAVE

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MINOR KINNARI D/O.RAMBHAI BHAICHANDBHAI PATEL

Versus

HIRJI SAVJI KOLI (DELETED)

Appearance:

1. First Appeal No. 1358 of 1985
MR KH BAXI for Petitioner No. 1-3
DELETED for Respondent No. 1
NOTICE UNSERVED for Respondent No. 2
MR RAJNI H MEHTA for Respondent No. 3

CORAM : ACTING CHIEF JUSTICE MR.JN BHATT
and
MR.JUSTICE A.L.DAVE

Date of decision: 19/06/2003

ORAL JUDGEMENT

(Per : ACTING CHIEF JUSTICE MR.JN BHATT)

In this appeal under Section 110-D of the Motor Vehicles Act, 1988, the short question which has emerged for our consideration and adjudication is, whether the appellants - original claimants are entitled to additional amount of compensation or not, to which our clear reply in the light of the evidence on record and after having heard the learned Counsel for the parties is in positive for the following reasons.

2. Motor Accident Claims Tribunal (Aux.2) at Ahmedabad City has awarded an amount of Rs. 1,50,000/with interest at the rate of 6% per annum from the date of application till payment by way of compensation together with proportionate costs against all the respondents in MAC Petition No. 127 of 1983. Deceased Rambhai Patel's life was cut short in a violent road accident when he was proceeding on a scooter No. GJF 9321 from Ambica Mill side towardes Paldi side on 25.3.1983 at about 11.40 A.M, when at that time opponent No.1 driver of Motor truck No. GTS 6996 - Hirji Savji Koli came in excessive speed and violently dashed against the scooter causing fatal injury to the deceased Rambhai, who was aged about 35 years and who was earning Rs. 1,735/- per month and who was also working as an agent of small saving scheme. The deceased was thus earning an amount of Rs. 2,300/- per month. The claimants are heirs and legal representatives of the deceased, who made a claim of Rs. 3,50,000/- by way of compensation, against which the Tribunal reached to the conclusion that the claimants are entitled to only an amount of Rs. 1,50,000/- with proportionate costs and interest, which is carried before us in this appeal at the instance of the original claimants.

3. After having taken into consideration the facts and circumstances and the relevant provisions of the Motor Vehicles Act and the latest proposition of law, we are of the clear opinion that the Tribunal has taken a very conservative view in making an assessment for compensation in the light of the evidence, the age, the avocation and the potential and future prospects of the deceased. After considering all the relevant facts and material circumstances. we are of the clear opinion that atleast claimants are entitled to an additional amount of Rs. 24,000/- under both the heads with same rate of interest and costs.

4. The original claimants - appellants before us are thus, entitled to an amount of Rs. 1,74,000/- by way of compensation against all the opponents with interest and proportionate costs. This appeal therefore shall stand partly allowed with costs.

(J.N.Bhatt, Acting C.J.) (A.LDave, J.)

*/Mohandas